

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 05-10019-RGS
)	
DANIEL W. McELROY and)	
AIMEE J. KING McELROY,)	
)	
defendants.)	
)	

UNITED STATES' RESPONSE TO DEFENDANTS'
MOTION TO CONTINUE SENTENCING

In order to accommodate defense counsel, the United States, by its undersigned counsel, will agree to continue the sentencing in this matter for up to two months, but opposes defendants' requested four month continuance. Specifically, the government would not oppose a substantial, two month, continuance with sentencing to take place, at the Court's convenience, between June 23 and July 25.

Nothing in the record justifies continuing the sentencing to September. The government has reviewed the sealed affidavit submitted by Jack Zalkind, counsel to Aimee King McElroy ("King"), detailing his upcoming surgery. Continuing the sentencing to the end of June or July would give Mr. Zalkind several months to recover from the April 26 surgery before needing to respond to the Pre-Sentence Report or preparing submissions to the Court. Moreover, as defendants state in their Motion, "the issues concerning the sentencing process are similar for each" and Mr. Zalkind will be able to rely, as he did at trial, on his co-defense counsel when preparing for sentencing.

A two month continuance is substantial where, as here, the defendants are released pending sentencing and yet face significant sentences involving incarceration. The government's preliminary calculation of the sentencing guideline range would dictate a term of imprisonment of at least 121-151 months for each defendant, along with fines and restitution in

excess of \$20 million. Under these circumstances, it is neither reasonable nor appropriate to continue the sentencing hearing through the summer until more than seven months after the defendants were convicted.

For the foregoing reasons, the United States respectfully requests that the Court continue the sentencing currently scheduled for May 21, 2008 no more than one to two months and re-schedule the hearing to take place, at the Court's convenience, between June 23 and July 25.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

Dated: April 17, 2008

By: /s/ Sarah E. Walters
JONATHAN F. MITCHELL
SARAH E. WALTERS
Assistant U.S. Attorneys
John Joseph Moakley United States Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non registered participants on this date.

Dated: April 17, 2008

/s/ Sarah E. Walters
SARAH E. WALTERS